IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. NO. 20560 OF 2006

Date of Decision: May 10, 2007

Resham Singh …Petitioner

Versus

Pepsu Road Transport Corporation and another …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. R.S. Chauhan, Advocate,
for the petitioner.

None for the respondents.

JUDGMENT

M. M. KUMAR, J.

The petitioner in the instant petition filed under Article 226 of the Constitution, has challenged orders dated 4.7.2006 (P-4) and 7.7.2006 (P-5), whereby the pay of the petitioner has been re-fixed w.e.f. 12.5.1982 and recovery of Rs. 89,463/- has been ordered to be effected. The aforementioned orders are stated to have been passed after the retirement of the petitioner and recovery has been ordered to be made from his terminal dues i.e. from the amount of gratuity.

After hearing the learned counsel for the petitioner and perusing the record we find that the issue involved in the instant

petition is not res integra. It is trite law that no recovery can be fastened when there is no element of fraud or misrepresentation on the part of the employee. Reliance in this regard may be placed on the judgment of Hon'ble the Supreme Court in case of **Sahib Ram v. State of Haryana, 1995 (1) SCT 668,** wherein it has been categorically held that no recovery could be effected from an employee in the absence of misrepresentation or fraud on his part.

In view of the above, impugned order dated 7.7.2006 (P-5) is quashed. The amount shall be released to the petitioner within one month from the date of receipt of certified copy of this order, if the same has been deducted out of his retiral benefits.

Writ petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 10, 2007
Pkapoor